



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAKAU NZOMO

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

NEW YORK CITY

OFFICER WHEELER

OFFICER LANG

OFFICER FAMIANO

SERGEANT CRIMITZ

Jury Trial: ☒ Yes ☐ No
(check one)

10 CIV. 8530 (RA) (JLC)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

CITY OF N.Y. LAW DEPT.
OFFICE OF CLERK OF COURSE
2013 MAR -1 PM 4:07

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name MAKAU NZOMO % DAVID LEVENE
Street Address 155 W 68 ST. #1909
County, City NEW YORK
State & Zip Code NY 10023
Telephone Number _____

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name OFFICER WHEELER
 Street Address 100 CHURCH STREET
 County, City NEW YORK
 State & Zip Code NY 10007
 Telephone Number 212 788 0303

Defendant No. 2 Name OFFICER LANG
 Street Address 100 CHURCH STREET
 County, City NEW YORK
 State & Zip Code NY 10007
 Telephone Number 212 788 0303

Defendant No. 3 Name OFFICER FAMILIANO
 Street Address 100 CHURCH STREET
 County, City NEW YORK
 State & Zip Code NY 10007
 Telephone Number 212 788 0303

Defendant No. 4 Name SERGEANT CRIMITZ
 Street Address 100 CHURCH STREET
 County, City NEW YORK
 State & Zip Code NY 10007
 Telephone Number 212 788 0303

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☒ Federal Questions

☐ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? 1st, 4th, 5th & 14th AMENDMENTS

TO THE CONSTITUTION

ACTIONS FOR VIOLATION OF CIVIL RIGHTS PURSUANT TO 42 U.S.C. § 1983

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship _____

Defendant(s) state(s) of citizenship _____

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? _____

75 ALLEN STREET NEW YORK, NY 10002

B. What date and approximate time did the events giving rise to your claim(s) occur? _____

NOVEMBER 3, 2007 10:30 PM

C. Facts: SEE ATTACHMENT

What
happened
to you?

Who did
what?

Was anyone
else
involved?

Who else
saw what
happened?

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. _____

SEE ATTACHMENT

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. _____

SEE ATTACHMENT

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 1 day of MARCH, 2013

Signature of Plaintiff

[Signature]

Mailing Address

MAKAU NZOMO

96 DAVID LEVENL

155 W 68 ST. NY, NY 10023

Telephone Number

Fax Number (if you have one)

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20____, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Inmate Number

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKUSDC SDNY
DOCUMENT
ELECTRONICALLY FILED

DOC#

DATE FILED: 6/29/12 *ph*MAKAU NZOMO

(In the space above enter the full name(s) of the plaintiff(s).)

AMENDED
COMPLAINT

-against-

NEW YORK CITYJury Trial: ☒ Yes ☐ No
(check one)

10 CIV. 8530 (LTS)(SLC)

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2012 JUN 29 PM 1:35
CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS UNIT

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name MAKAU NZOMO % DAVID LEVENF
 Street Address 155 W 68 ST #1909
 County, City NEW YORK
 State & Zip Code NY 10023
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Defendant No. 1

Name NEW YORK CITY
 Street Address 100 CHURCH STREET

County, City NEW YORK
 State & Zip Code NY 10007
 Telephone Number 212 788 0303

Defendant No. 2 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 3 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

Defendant No. 4 Name _____
 Street Address _____
 County, City _____
 State & Zip Code _____
 Telephone Number _____

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TO THE CONSTITUTION

ACTIONS FOR VIOLATION OF CIVIL RIGHTS PURSUANT
TO 42 U.S.C. § 1983

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75 ALLEN STREET NEW YORK, NY 10002

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NOVEMBER 3, 2007 10:30 P.M.

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SEE ATTACHMENT

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. _____

SEE ATTACHMENT

I declare under penalty of perjury that the foregoing is true and correct.

Signed this ²⁹~~30~~ day of JUNE, 2012

Signature of Plaintiff

Mailing Address

Telephone Number

Fax Number (if you have one)

WJL
MAKAO NZOMU
96 DAVID LEVENCO
155 W 68 ST. #1909 NY, NY 10023

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For Prisoners:

I declare under penalty of perjury that on this _____ day of _____, 20__, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff: _____

Inmate Number _____

MAKAU NZOMO -against- NEW YORK CITY

III C. Facts

On November 3, 2007, three armed plain clothes NYPD officers; Officer Wheeler, Officer Lang and Officer Famiano entered my residence, where I also ran a popular cafe, without a search warrant and conducted a thorough search of the premises (including kicking down locked doors) and seized my property. A few minutes later they were joined by their supervisor, Sergeant Crimitz, who was uniformed and armed. Not long after that another officer, more senior than the sergeant, arrived and was given a tour of the premises for his approval. Sergeant Crimitz then grabbed me and ordered Officer Lang to handcuff me. I was not informed of why I was being arrested. I was transported to the 5th precinct police station in a marked police car in the company of Sergeant Crimitz and the senior police officer.

The illegal search did not produce a single act of illegal activity or contraband. In their criminal complaint against me the Officers lied about the reason for entering my residence and made up charges out of thin air. I was prosecuted maliciously in that the assistant District Attorney knew or should have known, from the start, that the charges were false and the arrest unconstitutional, but he nevertheless continued in his bad faith efforts to curtail my freedom.

All the charges were later dismissed in state criminal court and the arrest was voided.

During the warrantless search and seizure, the officers corralled my customers and guests and ordered them to leave the premises immediately and told them that if they ever returned they would be arrested.

The actions of the NYPD officers were a culmination of months of escalating harassments from the same four officers. In prior incidents I called the 5th Precinct and NYPD Internal Affairs Bureau in an effort to stop the harassment, which at times included physical abuse, to no avail. I also called the Manhattan District Attorney and the FBI.

One morning in December, 2006, Officer Famiano, then a truant officer, screamed at me asking me for my age. I gave my ID to his partner who then gave it back to me but as I sat down Officer Famiano screamed again for my age. When I reminded him that his partner had already seen my ID he threatened to arrest me for no reason at all but his partner talked him out of it.

One day in spring 2007 as I was taking a nap, Sergeant Crimitz woke me up and proceeded to frisk me, Officer Wheeler searched through my belongings while Officer Lang stood guard. Sergeant Crimitz wanted to know who I was and what I was doing in my own place.

In summer 2007, I confronted Sergeant Crimitz and asked him why he was harassing me and what I needed to do to stop them from harassing me and he told me that there was nothing I could do about it.

The only way to stop them was to lock the doors at all times even though that would inconvenience my customers but I had no choice. I also decided to report any more harassment to authorities.

On October 10, 2007, at 7:30 p.m., the same four officers came to my residence, armed and in plain clothes. They knocked at the glass door and windows with their flashlights but I didn't let them. They shined their flashlights and when I didn't respond, they scaled the walls and windows, peering in. I placed a call to the 5th precinct and told them what was going on and asked what they wanted. After a while the four officers mysteriously left. I never got a call back from the 5th precinct.

Two weeks later the same four Officers responded to an incident at my premises and Officer Famiano, without warning, grabbed me and threw me against the wall. He searched my pockets, grabbed my wallet and threw it about ten feet away. He started to berate me but luckily for me a vanload of officers came in. At that point Officer Famiano cooled down and didn't say much until the other officers left. Officer Wheeler advised me to leave town and that if I didn't they were going to drive me out of town. He also reminded me of an incident five years prior when he had responded to a burglary incident after I had called 911. Even though I was the victim of the burglary, he told me he never liked me then and he didn't like me now either.

After they left, I immediately called NYPD Internal Affairs Bureau and told them what happened. I also told them about all prior incidents. I also called Civilian Complaint and Review Board (CCRB), a City agency.

I was never told what action was taken by Internal Affairs Bureau. I thought that was the end of the harassments and that I would never see them again. But they struck again two weeks later on November 3, 2007, at 10:30 p.m.

A month or so later, Sergeant Crimitz saw me on the street and approached me and inquired about my having reported him especially after he had helped me, as he said. I told him I didn't have anything to say and walked away. Later that day I called the Internal Affairs Bureau and reported the encounter.

The success of these violations relied exclusively in the authority and power of the municipality and had they not been police officers, this would have been a case of Burglary, Robbery and Kidnapping.

I'm seeking \$20,000,000 compensation for the violation of my rights, false arrest, malicious prosecution, emotional distress, loss of business, loss of income, loss of opportunity, loss of property, loss of funds and for the unintended consequences of a false arrest.

I am also seeking \$60,000,000 in punitive damages for the reckless disregard and the crippling of the US Constitution by the NYPD, an agency of New York City government.

IV. Injuries

Injuries suffered as a result of the police wrongdoing: Emotional distress, loss of business, loss of income, loss of home, loss of opportunity, loss of property, loss of funds and other unintended consequences of a false arrest.

V. Relief

The City of New York is responsible for the actions of these officers because it is abundantly clear that these violations were done under the power of the City, the authority of the City, the direction of the City and the City approved their actions by prosecuting me.

The City is also responsible for its negligence in not supervising its agents, who were armed, and for allowing its weapons, vehicles, facilities and agencies to be used as tools to violate my rights. All these violations were done in-house, that is, the officers' actions, though illegal in this case, were approved actions and within the confines of City's supervisory limits but the City failed in supervising these officers.

At all times during my interaction with these armed officers my rights were violated but there was nothing I could do about it other than ask the 5th Precinct staff, and the responsible city agencies, the NYPD Internal Affairs Bureau and the Civilian Complaint and Review Board to correct the problem by directing better behavior by the particular police officers involved. Whatever they did about my complaints, if anything, did not change the police officers' practice or attitude of hostility and thus I turn to the courts in the hope of remedy.

Wherefore, I seek a trial to prove my claims of police misconduct, the resultant harm, and the failure of police supervision and City's agencies responsible for preventing and correcting such improper police behavior, despite my notifications and urging to correct.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAKAV NZOMO

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

10 Civ. 8530 (LF) (SL)

- against -

NEW YORK CITY

AFFIRMATION OF SERVICE

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I, MAKAV NZOMO, declare under penalty of perjury that I have
(name)

served a copy of the attached COMPLAINT
(document you are serving)

upon NEW YORK CITY whose address is _____
(name of person served)

100 CHURCH ST NEW YORK, NY 10007
(where you served document)

by PERSONAL DELIVERY
(how you served document: For example - personal delivery, mail, overnight express, etc.)

Dated: NEW YORK, NY
(town/city) (state)

JUNE 29, 2012
(month) (day) (year)

NJ
Signature

155 W 68 ST #1909
Address

NEW YORK, NY 10023
City, State

10023
Zip Code

Telephone Number

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAKAU NZOMO

(List the name(s) of the plaintiff(s)/petitioner(s).)

10 Civ. 8530 (RA) (JLC)

- against -

AFFIRMATION OF SERVICE

NYC, OFFICER WHEELER

OFFICER LANG, OFFICER FAMIANO

SERGEANT CRIMITZ

(List the name(s) of the defendant(s)/respondent(s).)

I, (print your name) MAKAU NZOMO, declare under penalty of perjury that I served a copy of the attached (list the names of the documents you served):

SECOND AMENDED COMPLAINT

upon all other parties in this case by (state how you served the documents, for example, hand delivery, mail, overnight express) HAND DELIVERY to the

following persons (list the names and addresses of the people you served): NEW YORK CITY,

OFFICER WHEELER, OFFICER LANG

OFFICER FAMIANO & SERGEANT CRIMITZ

on (date you served the document(s)) MARCH 1, 2013

MARCH 1, 2013

Dated

Signature

Address

City, State

Zip

Telephone Number

E-Mail Address